

## ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Title 8 of the Lincoln Municipal Code, Health and  
2 Sanitation, to increase various permit fees and other related fees by amending Section 8.06.145  
3 (open burning permit fees); Section 8.08.060 (body art establishment permit fees); Section 8.08.090  
4 (body art establishment renewal late fees); Section 8.08.150 (body art practitioner permit fees);  
5 Section 8.08.350 (reinstatement fees for a suspended body art establishment or practitioner); Section  
6 8.20.150 (food establishment permit fees); Section 8.20.160 (food establishment late fees); Section  
7 8.20.170 (food establishment reinstatement fees); Section 8.24.150 (noise control variance permit  
8 fees); Section 8.38.090 (swimming pool permit fees); Section 8.40.070 (spa facilities permit fees);  
9 and Section 8.44.070 (water well permit fees); and repealing Sections 8.06.145, 8.08.060, 8.08.090,  
10 8.08.150, 8.08.350, 8.20.150, 8.20.160, 8.20.170, 8.24.150, 8.38.090, 8.40.070, and 8.44.070 of the  
11 Lincoln Municipal Code as hitherto existing.

12 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

13 Section 1. That Section 8.06.145 of the Lincoln Municipal Code be amended to read  
14 as follows:

15 **8.06.145 Open Burning Permits.**

16 (a) Any person may apply for a permit for open burning by filing a written application  
17 on forms provided for that purpose with the Director giving reasons why no other practicable  
18 method except open burning can be employed to dispose of the refuse involved, the amount and kind  
19 of refuse to be burned, the exact location where the burning will take place, including the distances  
20 to adjacent structures; and the dates or days and times when the open burning is proposed to take  
21 place. Applications from industrial or commercial businesses must be accompanied by payment of  
22 a permit fee of ~~\$100.00~~ \$105.00 per day on which burning is to take place. Said fee shall be credited  
23 to the Health Fund.

24 (b) Upon receipt of the application, the Director shall immediately forward the  
25 application to the Fire and Rescue Department having jurisdiction over the area in which the burning  
26 is to take place. Such Fire and Rescue Department shall endorse its approval or disapproval on the  
27 application within five days.

(c) Issuance of Permits. The Director shall not issue a permit unless:

(1) There is no other practical method except open burning which can be employed to dispose of the refuse involved, and

(2) The appropriate fire department has approved the application as meeting their fire safety requirements; or

(3) The fire is being set for purposes of training firefighters who are employed by or members of a rural fire district.

(d) Applicants may be issued an extended permit covering a period of time not to exceed one year. Such permits may limit the number of times the applicant can burn in a specific time period. As a condition of issuance, specific pollution control procedures or methods may be required by the Director in order to protect the public health.

(e) Unlawful Acts and Revocation. It shall be unlawful for the permittee to fail to carry out any control procedures or other conditions established as criteria for issuance of the permit. Said permit may be revoked by the Director at any time a violation of this ordinance is observed or conditions of the permit are not met.

Section 2. That Section 8.08.060 of the Lincoln Municipal Code be amended to read as follows:

**8.08.060 Body Art Establishment; Permit Fees.**

The fee for a body art establishment permit shall be as follows:

<b>Body Art Establishment</b>	<b>Initial</b>	<b>Renewal</b>
One (1) to five (5) stations	<del>\$300.00</del> <u>\$315.00</u>	<del>\$200.00</del> <u>\$210.00</u>
Each additional five (5) stations	<del>\$120.00</del> <u>\$125.00</u>	<del>\$ 80.00</del> <u>\$85.00</u>

Any initial body art establishment permit issued after the thirtieth of November of each calendar year shall pay seventy percent (70%) of the yearly fee. Renewal of all body art establishment permits shall be as required in Section 8.08.080. The fees shall be payable to the Lincoln-Lancaster County Health Department and the Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

Section 3. That Section 8.08.090 of the Lincoln Municipal Code be amended to read as follows:

**8.08.090 Body Art Establishment Permit; Renewal Late Fees.**

(a) An operator who fails to renew the permit before it expires, but within thirty days of the date of expiration shall pay a late fee of ~~\$100.00~~ \$105.00 in addition to the renewal fee.

(b) An operator who fails to renew the permit before it expires and fails to renew the permit within thirty days from the date of expiration shall pay a late fee of ~~\$200.00~~ \$210.00 in addition to the renewal fee.

(c) An operator who fails to renew the permit before it expires is operating without a valid permit and shall be subject to closure or other appropriate enforcement action determined by the Health Director.

Section 4. That Section 8.08.150 of the Lincoln Municipal Code be amended to read as follows:

**8.08.150 Body Art Practitioner Permit; Fees.**

(a) The fee for a body art practitioner permit shall be as follows:

Initial Fee	<del>\$50.00</del> <u>\$55.00</u>
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Renewal Fee	<del>\$25.00</del> <u>\$30.00</u>
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(b) The fees shall be payable to the Lincoln-Lancaster County Health Department and the Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

Section 5. That Section 8.08.350 of the Lincoln Municipal Code be amended to read as follows:

**8.08.350 Body Art Establishment or Practitioner Suspended Permit; Reinstatement Fee.**

Any person eligible for reinstatement as provided in Section 8.08.240, shall pay a reinstatement fee of ~~\$150.00~~ \$160.00 in addition to any other applicable fees. The Health Director shall not reinstate the permit until the reinstatement fee is paid.

Section 6. That Section 8.20.150 of the Lincoln Municipal Code be amended to read as follows:

**8.20.150 Food Establishment; Permit Fees**

(a) Any person who secures a food establishment permit under the Lincoln Food Code shall pay the appropriate fee as follows:

(1) Food Establishment:

Food establishment -- new permit . . . . . ~~\$385.00~~ \$400.00

Food establishment -- renewal . . . . . ~~\$255.00~~ \$265.00

Each additional food preparation facility

(new or renewal) . . . . . ~~\$115.00~~ \$120.00

(2) Mobile Food Unit:

New or renewal as additional facility . . . . . ~~\$115.00~~ \$120.00

(3) Food Catering Services:

Operating as an additional food preparation facility to an approved food establishment:

New or renewal . . . . . ~~\$115.00~~ \$120.00

(4) Temporary Food Establishment:

(a) Operating for a single event not to exceed fourteen consecutive days

Temporary food establishment . . . . . ~~\$100.00~~ \$105.00

With a related food establishment . . . . . ~~\$50.00~~ \$55.00

Nonprofit organization . . . . . ~~\$50.00~~ \$55.00

(b) Operating annually for more than one single event not to exceed fourteen consecutive days

Temporary food establishment . . . . . ~~\$325.00~~ \$340.00

Non-Profit Organization . . . . . ~~\$165.00~~ 170.00

(c) Operating as an additional food preparation facility to an approved food establishment

New or renewal . . . . . ~~\$115.00~~ 120.00

(5) Event Market:

One to five vendors ..... ~~\$100.00~~ \$105.00

Each additional five vendors ..... ~~\$100.00~~ \$105.00

(6) Farmer's Market:

Basic Fee ..... ~~\$ 50.00~~ \$55.00

Plus: Vendor fee for each  
vendor selling foods other than  
fruits, vegetables and products  
permitted by the Nebraska  
Department of Agriculture ..... \$ 10.00

(b) Any person issued a new food establishment permit, other than a temporary food service permit, after November 30 of each year shall pay 70% of the yearly fee.

(c) Fees shall be payable to the Health Director and the Health Director shall deposit the fees at the City Treasurer's Office. The City Treasurer shall credit the fees to the Health Fund.

Section 7. That Section 8.20.160 of the Lincoln Municipal Code be amended to read as follows:

**8.20.160 Late Fees.**

(a) An annual permit holder who fails to renew the permit before it expires, but within thirty days of the date of expiration shall pay a late fee of ~~\$60.00~~ \$65.00 in addition to the annual fee.

(b) An annual permit holder who fails to renew the permit before it expires and fails to renew the permit within thirty days from the date of expiration shall pay a late fee of ~~\$170.00~~ \$180.00 in addition to the annual fee.

(c) An annual permit holder who fails to renew the permit before it expires is operating without a valid permit and shall be subject to appropriate enforcement action by the Health Director.

Section 8. That Section 8.20.170 of the Lincoln Municipal Code be amended to read as follows:

1       **8.20.170       Reinstatement Fee.**

2           Any person eligible for reinstatement as provided in Section 8.20.310, shall pay a  
3       reinstatement fee of ~~\$100.00~~ \$105.00 in addition to any other applicable fees. The Health Director  
4       shall not reinstate the permit until the reinstatement fee is paid.

5           Section 9. That Section 8.24.150 of the Lincoln Municipal Code be amended to read  
6       as follows:

7       **8.24.150       Variances.**

8           (a)     The health officer shall have the authority to grant an initial variance to the strict  
9       application of Section 8.24.090 for a period of not to exceed fifteen calendar days. Any person  
10      seeking such a variance shall file an application with the health officer and shall submit a permit fee  
11      of ~~\$50.00~~ \$55.00. The application shall contain the information which demonstrates that bringing  
12      the source of sound or activity for which the variance is sought into compliance with this ordinance  
13      would constitute an unreasonable hardship on the applicant, on the community, or on other persons.

14          (b)     The health officer shall have the authority to grant an extension to any variance. Any  
15      person seeking such an extension shall file an application with the health officer. Notice of an  
16      application for an extension shall be posted by a sign placed in a conspicuous place on or near the  
17      property upon which action is pending. No extension shall be granted for a period of two days from  
18      and after posting of the property.

19          (c)     Any individual who claims to be adversely affected by allowance of any requested  
20      extension of a variance may, prior to the end of the two-day period after posting of the property, file  
21      a statement with the health officer containing any information to support the claim. If the health  
22      officer finds that a sufficient controversy exists regarding an application, a public hearing shall be  
23      held. All such hearings shall be held within five days after the period for filing claims under this  
24      subsection has ended.

25          In determining whether to grant or deny any application, the health officer shall balance the  
26      hardship to the applicant, the community, and other persons of not granting the variance or extension  
27      against the adverse impact to the health, safety, and welfare of persons affected, the adverse impact  
28      on property affected, and any other adverse impacts of granting the variance or extension.  
29      Applicants for variances or extensions and persons contesting extensions may be required to submit  
30      any information the health officer may reasonably require. In granting or denying an application,

1 the health officer shall place on public file a copy of the decision and the reasons for denying or  
2 granting the variance or extension and the criteria to be considered in deciding whether to grant  
3 variances and extensions.

4 Variances or extensions shall be granted by notice to the applicant containing all necessary  
5 conditions, including a time limit on the permitted activity. The variance or extension shall not  
6 become effective until all conditions are agreed to by the applicant. Noncompliance with any  
7 condition of the variance or extension shall terminate such variance or extension and subject the  
8 applicant to those provisions of this ordinance regulating the source of sound or activity for which  
9 the variance or extension was granted.

10 The health officer may issue guidelines defining the procedures to be followed in applying  
11 for a variance or extension and the criteria to be considered in deciding whether to grant variances  
12 and extensions.

13 (d) Any person who is aggrieved by a decision or order of the health officer under this  
14 ordinance may appeal such decision or order to the Air Pollution Control Advisory Board by filing  
15 a notice of appeal with the board secretary within fifteen days from the date of the issuance of such  
16 decision or order by the health officer.

17 The secretary of the Air Pollution Control Advisory Board, having received a properly  
18 submitted notice of appeal, shall notify the chairman of the Air Pollution Control Advisory Board  
19 and establish a date for the appeals hearing. The secretary shall then notify the person making the  
20 appeal, and any person who appeared before or filed a statement with the health officer, in writing  
21 of the time and place of the hearing, which shall, in no event, be more than fifteen days from the date  
22 of the filing of the notice of appeal with the board secretary. The Air Pollution Control Advisory  
23 Board shall, within seven days of the concluding date of the appeals hearing, file with the health  
24 officer a written final decision, either affirming the decision of the health officer, or modifying or  
25 reversing same. A copy of said decision shall be forwarded to the appellant.

26 Section 10. That Section 8.38.090 of the Lincoln Municipal Code be amended to  
27 read as follows:

28 **8.38.090 Fees.**

1           There shall be a ~~\$275.00~~ \$290.00 fee for a permit to conduct, operate and maintain a Class  
2   A or Class B swimming pool. The fee for a permit to conduct, operate and maintain a swimming  
3   pool shall be payable annually to the City of Lincoln and shall be credited to the Health Fund.

4           Failure or refusal to pay the permit fees required by this section to be paid on or before April  
5   first of each year for which a permit is issued shall be grounds for revocation of such permits.

6           Section 11. That Section 8.40.070 of the Lincoln Municipal Code be amended to  
7   read as follows:

8   **8.40.070       Permit and Inspection Fees.**

9           The fee for a permit to conduct, operate, or maintain a spa facility shall be as follows:

Individual Spa Facility	
One Spa Pool . . . . .	<del>\$275.00</del> <u>\$290.00</u> ;
Additional Spa Pool. . . . .	<del>\$75.00</del> <u>\$80.00</u> per spa pool;
Spa Facility Co-Located	
With A Permitted Swimming Pool. . . . .	<del>\$75.00</del> <u>\$80.00</u> per spa pool.

15          The fees shall be payable annually to the City of Lincoln and shall be credited to the Health  
16   Fund.

17          Section 12. That Section 8.44.070 of the Lincoln Municipal Code be amended to read  
18   as follows:

19   **8.44.070    Permit for Water Well; Application; Fees.**

20          Applicants for a permit shall obtain forms from the Health Director, which completed forms  
21   together with the permit fee, shall be filed with the Health Director, who shall forthwith forward  
22   such completed forms to the Public Utilities Department and such other appropriate departments of  
23   the city for processing. If such applicant's well is found to be in compliance with the "Water Well  
24   Regulations and Standards of the City of Lincoln" and its ordinances, a permit shall then be issued.  
25   In the event that such applicant's well does not comply with such ordinances, regulations and  
26   standards, such applicant shall immediately discontinue the use of such well until same is brought  
27   into compliance with the applicable ordinance provisions, regulations, or standards.

28          The following permit fees are hereby adopted:

- |  |                                     |
|--|-------------------------------------|
| (a)   Water well construction permit . . . . . | <del>\$150.00</del> <u>\$160.00</u> |
| (b)   Bi-annual permits . . . . .              | <del>\$100.00</del> <u>\$105.00</u> |



1 (c) Water well repair permit ..... ~~\$ 75.00~~ \$80.00

2 All fees shall be credited to the Health Fund.

3 Section 13. That Sections 8.06.145, 8.08.060, 8.08.090, 8.08.150, 8.08.350, 8.20.150,  
4 8.20.160, 8.20.170, 8.24.150, 8.38.090, 8.40.070, and 8.44.070 of the Lincoln Municipal Code as  
5 hitherto existing be and the same are hereby repealed.

6 Section 14. That this ordinance shall take effect and be in force from and after its  
7 passage and publication according to law.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_\_ day of \_\_\_\_\_, 2006:

\_\_\_\_\_  
Mayor